

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

NL INDUSTRIES, INC.,

Plaintiff,

V.

OLD BRIDGE TOWNSHIP, *et al.*,

Defendants.

Civil Action No. 13-3493 (MAS)(TJB)

ORDER

This matter comes before the Court upon twelve motions to dismiss, pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6), filed by Defendants. (Defs.’ Mots., ECF Nos. 72, 112, 116, 118, 124, 128, 130-32, 138, 143, 154.) Plaintiff NL Industries, Inc. filed opposition to the motions (Pl.’s Opp’n, ECF Nos. 213-15) and filed a cross-motion for partial summary judgment against Defendant Old Bridge Township (Pl.’s Mot., ECF No. 216). Certain Defendants replied. (Defs.’ Replies, ECF Nos. 224-33, 235, 240.) Old Bridge filed opposition to Plaintiff’s cross-motion for summary judgment (Twp. Opp’n, ECF No. 240) and, with the Court’s permission, Plaintiff replied (Pl.’s Reply, ECF No. 275). The Court has carefully considered the submissions and the oral arguments heard on June 19, 2014. For the reasons stated in the Memorandum Opinion filed today, and other good cause shown,

IT IS on this 30th day of June, 2014, **ORDERED** that:

- 1)** Defendants' motions to dismiss (ECF Nos. 72, 112, 116, 118, 124, 128, 130-32, 138, 143, 154) are GRANTED in part and DENIED in part.
- a. Defendants' motions to dismiss Count One are denied.
 - b. Defendants' motions to dismiss Count Two are granted. Count Two is dismissed without prejudice. Plaintiff is not granted leave to amend.
 - c. Defendants' motions to dismiss Count Three are granted as to the Federal Declaratory Judgment Act claim. Defendants' motions to dismiss Count Three are denied in all other respects.
 - d. Defendants' motion to dismiss Count Four are granted. Count Four is dismissed without prejudice.

- e. Defendants' motions to dismiss Count Five are granted. Count Five is dismissed, without prejudice, with leave to amend within thirty (30) days from the date of this Order.
 - f. Defendants United States Army Corps of Engineers and United States General Services Administration's motion to dismiss Counts Four and Five is granted. Counts Four and Five are dismissed, without prejudice, as barred by the doctrine of sovereign immunity.
 - g. Defendants Rio Tinto Minerals, Yuasa Battery, Inc., and EnerSys, Inc.'s motions to dismiss based on successor liability are denied.
 - h. Defendants' motions to dismiss Plaintiff's claim for attorneys' fees and costs are denied without prejudice.
- 2) Plaintiff's cross-motion for summary judgment (ECF No. 216) is DENIED without prejudice.

/s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE